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FEDERAL ELECTION COMMISSION

Washington, DC 20463

October 7, 1998

Dick Lane  
3051 Woodcrest Drive  
San Jose, CA 95118

**SENSITIVE**

RE: MUR 4716  
Dick Lane for Congress Committee;  
Dick Lane, as Treasurer

Dear Mr. Lane:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on February 3, 1998, the Federal Election Commission found reason to believe that Dick Lane for Congress Committee ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i) and (iii), and instituted an investigation into this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

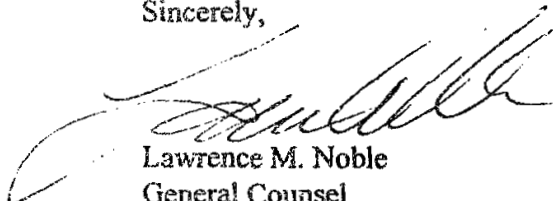
If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lawrence M. Noble", is written over the typed name and title.

Lawrence M. Noble  
General Counsel

Enclosure  
Brief

99-04-391-1003  
1001-163-40-65

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 4716  
Dick Lane for Congress Committee, and )  
Dick Lane as Treasurer )

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). On February 3, 1998, the Commission found reason to believe that the Dick Lane for Congress Committee ("Committee") and Dick Lane, as treasurer ("Respondents") violated 2 U.S.C. § 434 (a)(2)(A)(i) and (iii) by failing to file timely their 1996 October Quarterly and 12 Day Pre-General Election Reports by Election Day, November 5, 1996. This brief sets forth the General Counsel's position on the factual and legal issues in this matter and the recommendation that there is probable cause to believe a violation has occurred. *See* 11 C.F.R. § 111.16(a).

II. ANALYSIS

The Federal Election Campaign Act of 1971, as amended, ("the Act") requires treasurers of political committees to file periodic reports of receipts and disbursements. 2 U.S.C. § 434(a). In any calendar year in which a regularly scheduled election is held, principal campaign committees of candidates for federal office must file quarterly reports no later than the 15th day after the last day of each calendar quarter, which shall be complete as of the last day of each calendar quarter. 2 U.S.C. § 434(a)(2)(A)(iii). In an election year, such committees must also file pre-election reports for the primary and general election no later than 12 days before any

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primary and general election, which shall be complete as of the 20th day before such election.  
2 U.S.C. § 434(a)(2)(A)(i).

The Dick Lane for Congress Committee is a political committee within the meaning of 2 U.S.C. § 431(4) and was the authorized principal campaign committee for Dick Lane's 1996 congressional campaign. Dick Lane is the treasurer of the Dick Lane for Congress Committee.

Pursuant to the Act, Respondents were required to file their 1996 October Quarterly Report by October 15, 1996. 2 U.S.C. § 434(a)(2)(A)(iii). Respondents filed their October Quarterly Report on November 6, 1996, 22 days after the required date. That report disclosed receipts totaling \$8,125.00 and disbursements totaling \$16,311.93 during the applicable period.

Pursuant to the Act, Respondents were also required to file their 1996 12 Day Pre-General Report by October 24, 1996. 2 U.S.C. § 434(a)(2)(A)(i). Respondents filed their 12 Day Pre-General Report on November 6, 1996, 13 days after the required date. That report disclosed receipts totaling \$2,270.00 and disbursements totaling \$19,603.89 during the applicable period.

Although the Respondents admit they failed to file timely their October Quarterly and 12 Day Pre-General reports, they contend that the failure was inadvertent because Mr. Lane was very busy, had no paid staff, and acted as his own treasurer. Respondents also argue that the late filings were inconsequential because Mr. Lane received little financial support and paid two-thirds of his campaign expenses.

Respondents' contention that the late filing was unintentional does not relieve them of responsibility in this matter. Moreover, the late reports were not filed until November 6, 1996, which was after election day. Thus, the information about the Respondents' contributions and

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expenditures was not made public via FEC disclosure reports until after the election, depriving the public of the information.

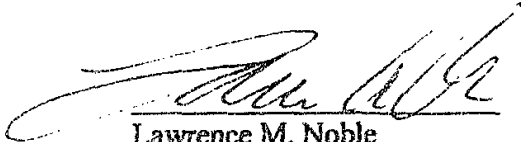
For the foregoing reasons, this Office recommends that the Commission find that there is probable cause to believe that the Dick Lane for Congress Committee and Dick Lane, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i) and (iii) by failing to file timely their 1996 October Quarterly and 12 Day Pre-General reports within the required time period.

**III. GENERAL COUNSEL'S RECOMMENDATION**

Find probable cause to believe that Dick Lane for Congress Committee and Dick Lane as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i) and (iii).

Date

10/7/98

  
Lawrence M. Noble  
General Counsel

99-04-391-1004